IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE
Writ Petition No.8784 of 2003

Shri Vitthal Shantaram Shingare & ors. Petitioners
Vs.
Shri Bhagoji Bhiku Shingare & ors. Respondents

Mr.P.J.Shinde for petitioners.
Mr.G.S.Godbole for Resp.Nos.1A, 1C and 1D.

CORAM: B.H.MARLAPALLE,J.

July 11, 2006.

P.C.

. Heard Mr.Shinde, the learned counsel for the petitioners and Mr.Godbole for Respondent Nos.1A, 1C and 1D. In RCS No.11 of 1989 the Issues were framed on 31/7/1993 below Exhibit 104/B. Thereafter an application came to be filed by the petitioner-defendant no.1 for referring the issue of tenancy to the Tenancy Court and the said application came to be rejected on 21/6/1997 by the learned Civil Judge, Junior Division at Mahad. Hence this petition. In the Written Statement the defendant contended that all the suit lands were not the joint family property and the defendant no.1 was cultivating as a tenant in respect of the lands in Survey No.42 (1/1), 31/6, 16/1, 41/4 etc. The trial Court, therefore, framed Issue No.2 as under:

"Whether the plaintiff further proves that the suit lands were jointly cultivated by him and the father of the defendants as tenants?"

. Having regards to the written statement submitted by the defendant no.1 and the issues framed, there was no whisper at any time raised by the defendant that some of the lands had come to his ownership by the operation of the Bombay Tenancy and Agricultural Lands Act, 1948 or that he was the tenant over some of the lands as on 1/4/1957. The trial Court, therefore, rightly held that there was no issue required to be decided by the Tenancy Court within the meaning of the said Act.

. Hence the petition is rejected summarily.

(B.H.MARLAPALLE,J.)